

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alberth, Jr. et al.)
)
For: Method and Apparatus for)
Storing a Message for Playback)
during a User-Initiated)
Emergency Telephone Call from)
a Wireless Device)
)
Serial No.: 09/610,768)
)
Filed: July 6, 2000)
)
Examiner: Tran, T.)
)
Art Unit: 2618)

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Board of Patent Appeals and Interferences

APPELLANT'S REPLY BRIEF

This reply brief is in furtherance of the Examiner's Answer, mailed on September 15, 2009. The reply brief includes the appellant's response to the Examiner's most recent issues raised in the previously noted Examiner's Answer, which includes a Response to Argument section, toward the bottom of page 4 of the Examiner's Answer, otherwise the Examiner's Answer, with the exception of the Response to Argument section constitutes a repeat of the argument as outlined in the Office Action, dated August 7, 2008, which was made final.

In responding to Appellant's arguments, the Examiner has agreed with the applicants that voice signals are a subset of audio signals. Therefore, an embodiment in the detailed description which is directed to voice signals would appear to be an embodiment which fully supports the

concept of detecting an audio signal of which a voice signal is at least one type. So, it is worth noting that the Examiner is not alleging any new matter objection, nor is the Examiner alleging that the claims are not supported by the specification. In fact, it may be worth further noting that the claim language being objected to was present in the application as originally filed, where more specifically claim 4, 12 and 16 as originally filed, provided:

4. The method of claim 1, wherein step c) comprises the step of:
 - d) sending the stored message from the wireless device if no audio signals are picked-up by a microphone of the wireless device. (emphasis added)
12. The method of claim 1, wherein step c) comprises the step of:
 - d) terminating sending the stored message when an audio signal is picked-up by a microphone of the wireless device. (emphasis added)
16. The method of claim 14, wherein step c) comprises the step of:
 - d) sending the stored message if audio signals are not picked by a microphone of the wireless device within a predetermined time after the call is established. (emphasis added)

As can be seen, contrary to the Examiner's assertions, this is not simply a matter of the applicants originally disclosing a narrow scope and then later attempting to gain patent coverage for a broader and larger scope (even though such an action in at least some cases may be entirely appropriate). Such an attempted characterization on the part of the Examiner is simply without merit. The present claim scope relative to the objected phrase is entirely consistent with the claims as originally filed, as well as being originally supported by the detailed description. This would alternatively appear to be a case where the Examiner is attempting to force the applicants to include details from an exemplary embodiment found in the detailed description absent any requirement to do so that is supported by the laws and the rules of the US Patent and Trademark Office, where the details from an exemplary embodiment found in the detailed description may be intended to additionally satisfy a best mode and/or an enablement requirement, which in some cases can involve a greater level of detail and/or a more specific focus.

The present remarks are in addition to and support the previous remarks and arguments made by the Appellant in Appellant's Appeal Brief, dated June 29, 2009.

In view of the above noted reasoning, the applicants would respectfully request that the Examiner's decision to finally reject the pending claims be overturned, and that the claims be permitted to proceed to allowance.

Respectfully submitted,

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